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ABSTRACT

The report describes 1980-81 meetings and efforts of the Bureau of Indian Affairs (BIA) Advisory Committee for Exceptional Children. Proceedings of three meetings are summarized in Part I. Part II analyzes the Department of Interior/BIA state plans for fiscal years 1980-3. The section lists comments and recommendations for such aspects as the federal hiring freeze; repeal of P.L. 94-142, the Education for All Handicaped Children Act and the establishment of block grants; and public notification of advisory committee meetings. Detailed comments are made on specific sections of the state plans. Among five appendixes are the Charter of the BIA Advisory Committee for Exceptional Children, the BIA Projected December FY 1980 Child Count, and a map of BIA area offices. (CL)

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Bureau of Indian Affairs Special Education Opportunities For Exceptional Children

The Second Annual Report To the Department of the Interior

Bureau of Indian Affairs
Advisory Committee for Exceptional Children

November 1981

EC151081

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
ADVISORY COMMITTEE FOR EXCEPTIONAL CHILDREN

To: The Assistant Secretary - Indian Affairs

On behalf of the Bureau of Indian Affairs Advisory Committee for Exceptional Children, I am pleased to transmit our Second Annual Report to the Department of the Interior. The report contains the Committee's recommendations, concerns and activities of the past year with regard to the Bureau's special education and related services program.

In order to assure that all American Indian and Alaska Native exceptional children receive appropriate educational opportunities, it is important for the Committee, the Department, and the Bureau of Indian Affairs to continue working together.

Respectfully yours;

Doris Johnson, *Chairperson*
Annual Report/Publications
Subcommittee
BIA Advisory Committee for
Exceptional Children

Philosophy Statement

The Bureau of Indian Affairs Advisory Committee for Exceptional Children believes that all American Indian and Alaska Native exceptional (handicapped*) children have a right to a free appropriate public education. In order to provide for the unique educational needs of these culturally diverse exceptional individuals, the Committee is dedicated to advocating and advancing improvements in U. S. Department of the Interior and Bureau of Indian Affairs policies, procedures, administrative organization, plans and funding to assure the availability of comprehensive special education and related services.

* handicapped — refers to those individuals evaluated by professionally qualified personnel as being, mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or as having specific learning disabilities, who because of those impairments need special education and related services.

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Advisory Committee For Exceptional Children
(1980-81)

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Barbara Murphey—*Corresponding Secretary*

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Bruce Ramirez, *Chairperson*
Frances LeMay
Barbara Murphey

Legislative, Regulatory, Policies and Standards Subcommittee

Kenneth Williams, *Chairperson*
Benjamin Lee
Frances LeMay
Earl Old Person

P.L. 94-142 Subcommittee

Janice Yerton, *Chairperson*
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Barbara Murphey

Annual Report/Information Subcommittee

Doris Johnson, *Chairperson*
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Advisory Committee President's Statement

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

ADVISORY COMMITTEE FOR EXCEPTIONAL CHILDREN

To sensitize all citizens of the needs of disabled persons, the United Nations General Assembly designated 1981 the International Year of Disabled Persons (IYDP). The central theme of "full participation and equality" encourages all nations of the world to focus on the needs of disabled persons and to design and implement activities to provide them with opportunities to become active and contributing members of their society. The United States has joined this effort and President Reagan has pledged the cooperation of the Administration in responding to this challenge (Presidential Proclamation 4818). Among the goals established by the U.S. Council for IYDP relating to disabled persons in this country, the following seem especially relevant for American Indian and Alaska Native handicapped children:

- expanded educational opportunity;
- improved access to housing, buildings and transportation;
- greater opportunity for employment; and
- greater participation in recreational, social and cultural activities.

At the same time the United States government has pledged its full support and cooperation in seeking to expand opportunities for all disabled Americans through its participation in IYDP activities, the Administration has introduced and is now implementing various aspects of its Program for Economic Recovery. Efforts are now underway at the federal level to substantially reduce domestic spending, create block grants through the repeal of existing categorical legislation, deregulate programs and curtail administrative travel and federal employment.

While the Advisory Panel supports attempts to lessen inflation and encourage effective and efficient government, the Committee is deeply concerned that some of these proposals could adversely effect BIA school programs and services for handicapped as well as nonhandicapped students (see recommendations). For example, while it may seem reasonable to reduce the number of federal employees, this can result in teaching vacancies as well as lengthy delays in providing appropriate programs and services if appropriate officials do not recognize and account for the uniqueness of the federal school system for Indians. Certainly, the education of our Indian handicapped students by the Department of the Interior/BIA is as important as any other national responsibility and deserves the attention of officials at the highest levels within the Department and Administration to insure that the federal government fulfills its special educational responsibilities.

As we approach 1982, the Advisory Panel looks forward to working with those concerned about and involved in the education of Indian and Alaska Native exceptional students to realize the goals of IYDP within the Department of the Interior and BIA.

Bruce A. Ramirez
President, BIA Advisory Committee
for Exceptional Children

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Introduction

In July, 1980, Secretary of the Interior Cecil D. Andrus, appointed five new members to the Bureau of Indian Affairs Advisory Committee for Exceptional Children (ACEC). The Committee, which is in its second year of existence, is presently the only advisory group within the Department related to Indian education and was established to assist the BIA on matters concerning appropriate education programs and services for American Indian and Alaska Native handicapped children and youth (see Charter, Appendix A).

Duties

The Advisory Committee was formed as a result of a provision of The Education for All Handicapped Children Act of 1975, P.L. 94-142, which requires states and other jurisdictions participating under the Act to have an advisory panel appointed by the Governor or other government official authorized under law to make such appointments. The duties of the Committee are to:

- Comment publicly on the Department of the Interior/BIA State Plan;
- Comment on proposed regulations and the procedures for the distribution of funds;
- Advise the Secretary of the Interior through the Assistant Secretary of Indian Affairs of unmet needs in the education of Indian and Alaska Native handicapped children;
- Assist in developing and reporting such information as may help BIA serve Indian and Alaska Native handicapped children; and
- Submit a report each year concerning its activities and suggestions to the Assistant Secretary for Indian Affairs.

Membership

The Advisory Panel is composed of individuals concerned with and involved in the provision of BIA special education programs and services and includes the following kinds of persons: handicapped individuals, parents of handicapped children, teachers, and administrators of special education programs and local school and tribal officials. In addition to professional, consumer and tribal diversity, the Committe is reflective of the administrative organization of the Bureau as well as the "national" nature of its school system. Accordingly, members have been selected to represent the concerns of the entire system or a given Area Office. Each member of the Committee serves for a three year period with five members replaced each year.

Other Activities

It has been the position of the Committee that its meetings be held at different locations throughout the Bureau to allow for maximum input from those in different regions. Meetings of the Advisory Panel are open to the public unless otherwise indicated and individuals are encouraged to share their concerns and interests with the Committee. In this regard, there is an opportunity for persons to address the Committee during the public comment period of each full Advisory Panel.

Besides regularly scheduled meetings (at least three per year), Committee members attend and participate in a wide variety of meetings and conferences concerned with the education of handicapped children throughout the BIA, as well as similar activities conducted by other federal and state agencies and Indian tribes and organizations.

Where To Obtain More Information

Individuals interested in obtaining more information about the Advisory Committee or those wishing to bring a concern or recommendation to the Committee's attention may do so by contacting any of the officers or members directly or at the address listed below:

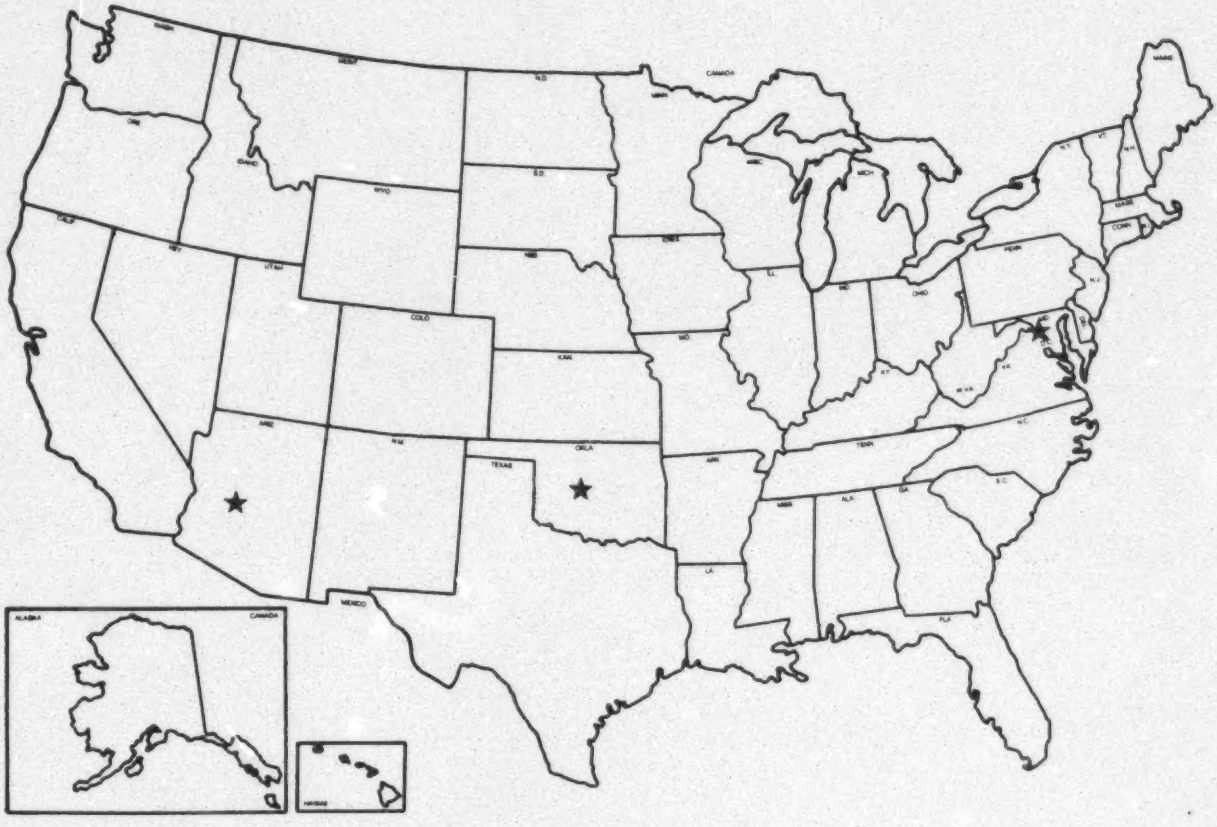
Bureau of Indian Affairs Advisory Committee for
Exceptional Children
U.S. Department of the Interior
Office of Indian Education Programs
18th and C Streets, N.W., Code 507
Washington, D.C. 20240

Phone: (202) 343-4071

Part I

Advisory Committee Meetings

1980-81 BIA Advisory Committee for Exceptional Children (ACEC) Meetings



Phoenix, Arizona	January 25-26, 1981
Oklahoma City, Oklahoma	March 19-21, 1981
Washington, D.C.	June 28-30, 1981

Summaries of Full Advisory Committee for Exceptional Children (ACEC) Meetings

Phoenix, Arizona

The Committee met for the first time during 1980-81 on January 25-26, 1981, at the Ramada Inn East Resort in Phoenix, Arizona. Elected to office at this meeting were: Bruce A. Ramirez, President, Frances LeMay, Vice President, and Barbara Murphey, Corresponding Secretary.

In order to aid the Advisory Committee in carrying out its responsibilities, the Committee established the following four standing subcommittees:

- **Planning/Executive Subcommittee.** Responsible for planning and budgetary matters, emergency actions and Committee charter, organization and operational procedures.
- **Annual Report/Information Subcommittee.** Responsible for preparation of the annual report to the Assistant Secretary of Indian Affairs and for the development and refinement of other informational materials.
- **Public Law 94-142 Subcommittee.** Responsible for conducting the review and preparing the Committee's comments on the state plan, as well as reviewing of the P.L. 94-142 program, i.e., monitoring LEA applications, and allocation of funds.
- **Legislative, Regulatory, Policies and Standards Subcommittee.** Review and initiate recommendations in regard to proposed and existing legislation, regulations, policies, standards and administrative organization affecting special education programs and services.

The Committee was addressed by a number of individuals on various concerns.

- Dr. Bruce Ramirez reviewed the Advisory Panel's history and duties as well as the past year's activities.
- Ms. Cathie Bacon, Educational Specialist, gave an overview of the Division of Exceptional Education (see Appendix E), which included a brief history of special education funding and programming within the Department of the Interior.
- Mr. Clifford Pablo, Indian Oasis School Board President, expressed concern regarding the overlap of services to Indian handicapped children, and the resulting confusion in delineating BIA and public school responsibilities. He requested that the Committee consider this issue and make a recommendation regarding mutual cooperation and assistance in developing cooperative agreements between public, BIA and tribal education agencies.
- Ms. Barbara Emmons discussed the Papago Early Childhood Education Program and requested assistance to insure that earmarked funding is appropriated for young handicapped children on the Papago Reservation. The Committee agreed to have the Legislative, Regulatory, Policies and Standards Subcommittee study this issue and offer recommendations.
- Mr. Courtney Harper, Colorado River Tribe, expressed a need for his tribal community to become aware of handicapping conditions, funding procedures and education services available for Indian handicapped children attending public schools.
- Ms. Sandra Sisco, Muskogee Area Office, explained the new travel voucher processing procedures. This Area Office will be responsible for processing travel vouchers for Committee members.

The Committee attended to matters concerning completion of the First Annual Report, proposed amendments to the existing charter, dates and sites of future Committee meetings, and the lack of participation of some members. The Committee decided to contact members who have missed several consecutive meetings to request an explanation for their non-attendance. The Committee also discussed the proposed special education regulations and recommended that the final special education regulations apply to both BIA operated and tribally operated contract schools receiving financial assistance for the education of handicapped students through the Indian School Equalization Program and/or P.L. 94-142 (see recommendations, page 15).

Oklahoma City, Oklahoma

On March 19-21, 1981, the Committee held its second meeting at the Ramada Inn (Crossroads Mall) in Oklahoma City, Oklahoma. Prior to the meeting several Committee members visited the special education program at Concho School.

The following individuals made presentations to the Advisory Panel on a number of varying topics.

- Mr. Dan Sahmaunt, Education Program Administrator and Ms. Judy Littleman, Special Education Coordinator of the Anadarko Area Office welcomed the Committee to Oklahoma, and provided an overview of educational programs within the Anadarko Area Office.

- Dr. Ramirez provided an overview of the Administration's plans for reducing the federal budget and creating a block grant for education.

- Mrs. Dixie Owen, Education Specialist, Division of Exceptional Education, provided an update on the progress being made to complete the FY 1981-83 State Plan. She also reported that her office had received a letter of resignation from the Juneau Area Office representative and she described the Division's continuing efforts to determine the reasons for the lack of participation of some Committee members.

- Mr. Altaha discussed a resolution (No. 81-63) adopted by the White Mountain Apache Tribe urging Congress to maintain current levels of funding for federal special education programs. Mr. Williams discussed a Resolution (No. 97080) passed by the Papago Tribe concerning the need for the BIA to provide funding for the Tribe's early childhood education programs.

- Dr. Gabe Paxton, representing Dr. Earl Barlow, made a presentation on the implementation of P.L. 95-561, as well as the Administration's proposed budget reductions and block grant plans for selected programs administered by the Bureau. Among the points emphasized with respect to the implementation of P.L. 95-561 were: direct line authority; plans to include the gifted and talented within ISEP; the authority, and policy inconsistencies.

- Mr. Jerry Thorp, Educational Planner for the White Mountain Apache Tribe, discussed his concerns about the availability of full and appropriate BIA special education programs and services on the White Mountain Apache reservation. Among the concerns mentioned were lack of special education services for identified handicapped students; lack of qualified special education teachers; questionable evaluation practices and monitoring procedures; and noncompliance with P.L. 94-142.

- Ms. Margaret Anquoe and Mr. Sam Hart of the Concho School Board expressed concern about the administration of the special education program particularly with respect to P.L. 94-142 procedures and practices within their Area Office. Difficulties included: direct communication to school boards about Advisory Committee meetings; failure to receive a copy of the approved BIA State Plans; duplication of services and activities in school and Area Office LEA applications; and the need for technical assistance regarding the preparation of the school's LEA application.

Chairpersons were elected to the standing subcommittee and membership assignments were finalized (see page vi). Each of the subcommittees met to discuss areas of concern and where appropriate, finalize recommendations for consideration by the full committee.

The Committee reviewed the plans for the Advisory Panel's presentation (i.e., "Bureau of Indian Affairs Advisory Committee for Exceptional Children: Purpose, Role and Activities") at the National Indian Child Conference in May. It was agreed that it was necessary to make similar presentations at other Indian education meetings and conferences in order for the Advisory Panel to become better known to Indian communities.

The Advisory Panel considered several matters related to the organization of the Committee. In view of the confusion and uncertainty that had delayed the renewal of the Committee's charter, it was unanimously agreed to postpone consideration of the proposed Division of Exceptional Education changes pending notification that the Secretary of the Interior had renewed the charter for two years.

The Advisory Panel also reviewed the proposed nomination form for use in the selection of new members and offered suggestions for further refinement (see recommendation, page 20 and Appendix E for nomination form). The Committee also agreed to recommend the removal of members who for unknown reasons have

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repeatedly missed meetings. If travel permitted, the next meeting will be held in Albuquerque, New Mexico, in conjunction with the National Indian Child Conference, May 18-20, 1981. In this regard, it was recommended that the Division of Exceptional Education provide ample notice to school boards, schools, and others about forthcoming Advisory Committee meetings (see recommendation, page 10).

Based on the very short timeline for review of the FY 1981-83 State Plan, the Committee adopted a review procedure for organizing and finalizing its comments and recommendations. It was also requested that the Division of Exceptional Education provide each Committee member with a list of scheduled public hearings within their areas so that members might attend these sessions.

The Committee developed plans for the Second Annual Report as well as having discussed revisions in the Information Sheet. In addition to emphasizing the need for the Division of Exceptional Education to develop a mailing list, it was recommended that the annual report be published and disseminated to a diverse group of individuals, organizations and agencies concerned with BIA special education programs and services (See recommendations, page 19).

After extensive discussion, the Committee passed several recommendations concerning (a) promulgation of the special education regulations (see recommendation, pages 15-16); (b) federal hiring freeze/reduced personnel ceilings (see recommendations, page 8); (c) restricted administrative travel (see recommendation, pages 16-17); and (d) repeal of P.L. 94-142 and block grants (see recommendation, page 18).

Washington, D.C.

The third meeting of the Committee was held on June 28-30, 1981, at the Holiday Inn in Washington, D.C. In addition to conducting its regular business, the Committee had an opportunity to meet informally with Mr. Ken Smith, the newly appointed Assistant Secretary for Indian Affairs.

The Committee was addressed by several individuals in key positions each of whom discussed concerns and issues related to the education of handicapped students:

- Dr. Charles Cordova briefed the Committee on the current status of Bureau Special Education services including the Indian Childrens' Program in Albuquerque. With regard to the joint BIA/IHS program he emphasized the need to consider revising the work scope to give primary attention to BIA schools as well as provide for an external evaluation. Dr. Cordova also reported that OIEP had initiated the final clearance procedures for issuance of the Special Education Regulations. He stated that forms clearance procedures must be completed and approved by OMB Prior to issuance of regulations. Dr. Cordova gave the Committee an update of the FY 1982-83 State Plan Renew and Approval Process.

- Ms. Gay Lawrence, President of the National Indian Education Association (NIEA), explained NIEA's role in Indian Education and the association's concern about proposed budgetary cuts in federal Indian and handicapped education programs. She also discussed the forthcoming NIEA conference to be held October 11-14, 1981, in Portland, Oregon, and invited the Advisory Committee to make a presentation.

- Dr. Earl Barlow, Director, Office of Indian Education Programs, BIA, discussed the current limitation on administrative travel including special education flow through funds and its effect upon the scope and effectiveness of the special education program. He also reported that the regulations for academic and dormitory standards, school boards and student's rights had been delayed and that OIEP had petitioned for an exemption to the federal hiring freeze/reduced personnel ceilings. Fiscal year 1982 appropriations were discussed as well as the recent reorganization which requires the Director (OIEP) to report to the Deputy Assistant Secretary for program rather than directly to Assistant Secretary (see Appendix F for previous lines of authority).

- Ms. Carmen Taylor, Chief, Division of Student Support Services, presented an overview of the responsibilities and activities of her office. This Division has been given the responsibility of developing the dormitory standards and revising the student rights and responsibility regulations. Other Division duties include: (1) residential school closures; (2) BIA operated and contract school eligibility to participate in the national school lunch program; (3) clarification of services under the Intensive Residential Guidance component of ISEP; and (4) school board training.

- Mr. George Scott of the Program Planning and Staff Development, OiEP, discussed the Department's/OMB procedures for reviewing, approving, and issuing final regulations. He indicated that the special education regulations could be handled separately or as a part of the academic standards and that the Committee might want to consider a recommendation on this matter.

- Dr. Bruce Ramirez reported on the Advisory Committee presentation at the National Indian Child Conference in Albuquerque, New Mexico and on the site visit to Laguna Elementary School. The two workshops were well attended and seemed to have generated much interest. It was suggested that the Committee continue to make presentations at selected national conferences.

- Ms. Dixie Owen, Education Specialist, Division of Exceptional Education, reported that the charter had been signed and filed on May 22, 1981, and will be in effect for two years. She also discussed the status of the selection of new members and the need to plan Committee meetings for the entire year.

In addition to agreeing to a proposed schedule for next year's meetings (i.e., Juneau Area, Navajo Area, Aberdeen Area and Washington, D.C.) the Committee proposed that a presentation be made at the NIEA Convention.

The Committee discussed the composition of the Panel in terms of equitable Area Office representation. As an interim measure while the Division of Exceptional Education studies this matter, it was recommended that one of the at-large positions be designated as an additional representative from the Navajo Area (see recommendation, page 10).

The Committee once again considered the delays associated with the issuance of the final special education regulations. As a means of drawing Departmental attention to the matter it was recommended these regulations be treated separately for the purpose of initiating final clearance and issuance (see recommendations page 10). The Committee further recommended that the Division of Exceptional Education review forthcoming proposed regulations on student rights to insure that the proposed regulations adequately address and protect the rights of special education students regarding suspension and expulsion (see recommendations, page 10).

After discussing the closure of BIA operated schools the Committee expressed concern that the needs of handicapped children be adequately addressed in the development and adoption of procedures for closure and/or transfer of BIA school facilities. It was recommended that the Division of Exceptional Education monitor the execution of these actions to insure continuity and appropriateness of services (see recommendation, page 10).

Other Activities

Prior to the first full Committee meeting, Bruce Ramirez, Frances LeMay and Benjamin Lee met with Division of Exceptional Education staff in Washington, D.C., January 9-10, 1981, to review the previous years activities in terms of planning for the upcoming year's functions.

Several members of the Committee were able to attend a portion of the January, 1981, Special Education Coordinators' meeting in Phoenix, Arizona. The President of the Advisory Committee addressed the coordinators and provided an overview of the Committee's history, purposes, membership and activities. Stressing the importance of working together and sharing information, several ideas were suggested to bring about closer cooperation between the special education coordinators and the Committee.

Advisory Committee officers Bruce Ramirez, Frances LeMay and Barbara Murphey made a presentation about the Advisory Committee at the National Indian Child Conference in Albuquerque, New Mexico on May 20 and 21, 1981. The presentation covered the history and present make-up of the committee, meetings and other activities, advisory panel responsibilities, as well as recommendations the committee has made to the Division of Exceptional Education, Office of Indian Education Programs and the Office of the Assistant Secretary for Indian Affairs. Accompanied by Doris Johnson and Efren Medrano, Southern Pueblos Agency Special Education Coordinator, they also visited the Laguna School on May 20th. In addition to visiting the classrooms, they met with administrators, teachers and paraprofessionals to discuss special education concerns.

Part II

Recommendations and Review of The Department of The Interior/ BIA FY 1980 And Fiscal Year 1981-83 State Plans

Recommendations

Special Education Regulations: Applicable To BIA Operated and Tribal Contract Schools

The Department of the Interior/BIA recently issued proposed Special Education rules and regulations to govern the provisions of appropriate specialized services for American Indian and Alaska Native handicapped children. While the Advisory Committee for Exceptional Children as a whole has not commented on these proposed regulations, several members have provided comments and suggestions individually. The Advisory Committee, however, is very concerned that these regulations, when promulgated, have greater applicability than originally proposed in the Supplemental Information section of the proposed regulations.

As presently proposed, these regulations would appear to apply only if a school receives financial assistance through the Department of the Interior/BIA P.L. 94-142 program. Under such an arrangement, it would be possible for a school to elect not to receive P.L. 94-142 funds and thus would not have to comply with these requirements. Such a requirement seems contrary to the intent of P.L. 94-142. Such a policy would also seem inconsistent with the purposes of P.L. 95-561, which requires the Department of the Interior/BIA to develop and adopt rules and regulations, policies, procedures and standards to assure equal educational opportunities for all students, including the handicapped served by Department of the Interior/BIA schools. For these reasons, the Advisory Committee recommends that the final special education rules and regulations apply to both Department of the Interior/BIA operated schools and tribally operated contract schools that receive financial assistance for the education of handicapped children and youth through the Indian School Equalization Program and/or P.L. 94-142.

Special Education Regulations: Clearance and Promulgation Of Final Rules

Among the concerns discussed by the BIA Advisory Committee during its Oklahoma City meeting was the extensive amount of time it has taken to revise and issue the Bureau's final rules and regulations governing the provision of special education services throughout BIA tribally and cooperative school systems. Since its establishment the Committee has emphasized the need for and importance of these regulations.

Moreover, the U.S. General Accounting Office (GAO), The Council for Exceptional Children, and Congressional Committees have made similar recommendations:

- A 1979 GAO Report (Report No. CED-79-121) on Bureau educational services to handicapped children underscored the need for special education rules and regulations.

- CEC, a professional association of 64,000 special educators, has noted that in contrast to all state education agencies, BIA continues to attempt to administer complex special education services and programs in the absence of written regulations that have the effect of law.

- The House Appropriations Committee Report (No. 96-1147) accompanying the 1981 Department of the Interior and Related Agencies Appropriations Bill called attention to the failure of the BIA to develop special education regulations. It was further stated that "it is virtually impossible for handicapped students and parents to hold the system accountable for providing handicapped children appropriate educational opportunities without rules and regulations. The Bureau is expected to implement appropriate rules and regulations prior to fiscal year 1981." At the same time, the Department and BIA have given repeated assurances that special education policies would be forthcoming.

- As long ago as June 1978, the Deputy Assistant Secretary for Indian Affairs stated in a public address that the Administration's handicapped initiative would include the development and adoption of policies and procedures.

- Regulations implementing Title XI (Part B), Sec. 1133 of P.L. 95-561 indicated that proposed regulations "to govern the implementation of P.L. 94-142 in BIA and tribally controlled schools" were scheduled for publication in September, 1979. More recently the Bureau response to the aforementioned GAO report (dated December 6, 1979) indicated that proposed regulations would "be published for comment later this month."

While proposed regulations for the education of the handicapped children were finally published September 29, 1980, to our knowledge the Department and Office of Indian Education Programs have yet to initiate procedures for final clearance and issuance of the revised regulations. In view of the acknowledged need for these policies and the desirability of having the regulations in place prior to the beginning of the next school year (August, 1981), the Advisory Committee respectfully requests that your offices initiate final approval procedures so that the special education regulations can be promulgated as soon as possible.

Restricted Administrative Travel For Federal Programs

For the second consecutive fiscal year, the Executive Branch has imposed travel restrictions on BIA education travel regardless of the source of these funds. Although we can appreciate the Congress's concern and efforts to reduce unnecessary administrative travel, we believe the Department's decision to include flow-through funds from the Department of Education for the education of handicapped children (P.L. 94-142) within the Office of Indian Education Programs (OIEP's) overall reduced travel ceiling is inappropriate and disregards the intent and requirements of this program.

We might add that the Congress has in the course of its deliberations on the FY 1981 Appropriations Act for the Department of the Interior and Related Agencies responded to the transportation and program problems created by this administrative decision. For example, the Administrative Provisions section of P.L. 96-514 pertaining to the BIA states: ". . . Provided further, that no part of any appropriation to the Bureau of Indian Affairs shall be used to subject the transportation of school children to any limitation on travel or transportation expenditures for Federal employees. . . ." The House Report (No. 96-1147), accompanying this fiscal measure further indicated that student travel (i.e., trips home on holidays, summer school and sports activities) "should not be curtailed or eliminated and that any reductions in travel be made in administrative travel." With respect to special education, the Senate Appropriations Committee indicated its concern about substantially reducing necessary special education travel as follows:

> Concern has been expressed about the imposition of the travel ceiling on BIA's education program, particularly the special education program. The Department has imposed these restrictions on pass through funds received from the Department of Education for education of handicapped children. As the Committee has noted, this program has serious problems which the imposition of the travel ceiling can only exacerbate. The ceiling is designed to curtail administrative travel, not prevent transportation of school children. The Committee is including bill language directing the Department not to curtail necessary education travel and to report to the Committee quarterly on the expenditure of education funds for travel purposes (Senate Report No. 96-985, pp. 59-40).

While these provisions and clarifications seem sufficient to insure that the transportation of handicapped children is not adversely affected, the Advisory Panel is concerned that the Department's inclusion of flowthrough funds for the handicapped within the overall OIEP travel ceiling will continue to contribute to the following kinds of problems:

- extensive delays in completing evaluations, developing individualized education programs and special education placements, and arranging and providing related services;
- cancellation or curtailment of important special education training sessions for Bureau school personnel;
- curtailed monitoring and technical assistance activities; and,
- delays in planning and conducting meetings of the Advisory Committee for Exceptional Children.

As detrimental as these problems may be to the special education programs and the education of handicapped children and youth, it is our understanding that sufficient funding has been available to carry out these services and activities. To insure that the Department is able to fully carry out its administrative responsibilities under the Education for All Handicapped Children Act (P.L. 94-142), it is recommended that travel related to such special education programs, services and activities be exempt from this freeze and these flowthrough funds not be included within the overall OIEP travel ceiling.

Federal Hiring Freeze Reduced Personnel Ceilings

As a part of the Administration's effort to reduce federal spending, a government-wide freeze had been placed on the filling of vacant positions. It is now our understanding that the hiring freeze has been ended and

that personnel ceilings are in the process of being reduced. While the Committee supports efforts to curtail excessive federal spending, we feel that such across the board actions frequently have an adverse impact upon the Bureau's education programs. For example, the Division of Exceptional Education has estimated that 35 special education positions were left vacant during the school year as a result of the freeze.

The Committee believes that the provision of appropriate special education and related services to handicapped students served by the Bureau school system is a right that cannot be compromised by such hiring restrictions. In order to maintain the current level of special education and related services provided to American Indian and Alaska Native handicapped children, it is recommended that BIA positions for special education and related services personnel be exempt from such hiring freezes. We would further urge that the Department insure that such positions be retained at school, Agency, Area, and Central Office levels as personnel ceilings are reduced throughout the Bureau.

Repeal of P.L. 94-142 And Block Grants

At the time of the Committee's last meeting, the Administration was in the process of developing a block grant that would substantially change the manner in which the federal government targets education funds to address identified educational needs. In the course of adopting this approach of allocating federal funds to states P.L. 94-142 would be repealed.

As indicated in the following Advisory Panel recommendation, the Committee is very supportive of this Act and is very concerned that any repeal without comparable Department of the Interior special education statutes and regulations would do irreparable harm to the educational opportunities presently available to handicapped Indian students serviced by Bureau and tribal schools.

> The Education for All Handicapped Children Act, P.L. 94-142, is an essential federal mandate which sets forth the framework for providing a free, appropriate public education in the least restrictive environment as possible. The Act excludes none, stating that all handicapped children have a right to an appropriate education, and further provides for the participation of the Secretary of the Interior on behalf of Indian handicapped children served by the Bureau school system. This law as well as Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) has provided the policy basis for eliminating discrimination against the handicapped so far as education is concerned. To repeal the mandates and protections set forth in this public law would be a serious setback in Civil Rights guarantees for the education of the handicapped. It is our recommendation and expressed desire that P.L. 94-142 remain intact and be complied with to the maximum extent possible. Repeal of such an important Act would again mean neglect of our American Indian and Alaska Native handicapped children and youth, and further lessen equitable opportunities in life for these individuals with special learning needs.

At the same time, we are very concerned that a block grant approach to federal funding even if it includes the Secretary of the Interior as an eligible participant could adversely affect the education of handicapped children. In the view of the Committee, it has only been through the earmarking of funds for special education purposes that the Department has continued to make steady progress in the education of handicapped children and youth. The absence of such earmarks for early childhood, vocational education, and the gifted and talented and the noticeable lack of comprehensive Bureau programs in these areas underscores the importance of such funding. While it is not clear whether the block grant will include the handicapped at this time, we recommend that the effects and consequences of block grants on the Bureau's special education programs and services be explored and considered thoroughly prior to adopting this alternative means of fund allocation.

Public Notification Of Advisory Committee Meetings

In general, the Committee does not feel that timely notice is being consistently afforded the public regarding Advisory Panel meetings. Among the concerns of representatives of the Concho School was the lack of available advanced information about the Advisory Committee as well as the purpose of the meeting. Equally disconcerting was the lateness of the meeting notice which appeared in the *Federal Register* two days after the meeting was held.

To increase public awareness about Advisory Committee meetings and allow a reasonable period of time for interested individuals to make plans to attend, the Committee believes that the Division of Exceptional Education should establish procedures to insure that the public is fully informed about forthcoming Advisory

Committee meetings as soon as meeting dates and site(s) are confirmed. In addition to the notice in the *Federal Register*, the Committee recommends that Area and Agency Special Education Coordinators, BIA and tribal schools, BIA and tribal school boards, tribal education committees and regional and national Indian education organizations be notified by the Division of the scheduled meeting. It is further suggested that these individuals, agencies and organizations be encouraged to post the notice in a public place for other interested parties.

Dissemination Of The Annual Report

Because of the lack of information generally available to those concerned about and/or involved in the education of American Indian and Alaska Native students attending Department of the Interior/Office of Indian Education supported schools and programs, the Advisory Committee recommends that the Annual Report be published and disseminated to at least the following individuals, agencies, organizations and groups: (1) former and present Advisory Committee members; (2) each BIA, tribal and cooperative school including school boards; (3) Area and Agency Special Education Coordinators; (4) tribal education committees/divisions; (5) regional and national Indian education organizations; (6) other advisory bodies such as the National Advisory Committee on Indian Education.

Nomination Form For Selection Of New Committee Members

With respect to the draft nomination form, the committee has recommended several changes which would narrow the information to be provided to experiences related to the education of American Indian and Alaska Native handicapped children and consideration of experiences with the BIA school system. In addition to suggesting that consideration be given to an increase in the kinds of individuals who should be represented on the advisory panel, the Committee recommends that educational agencies (i.e., schools) and individuals also be included as eligible nominators.

The Advisory Committee further suggests that a cover letter inviting nominations accompany the nomination form. Other information that should be mentioned in the letter includes: (1) date by which the nomination must be received or submitted: (2) duties of the Committee; (3) number of meetings per year; and (4) areas of representation (i.e., geographic and experience) that will receive priority consideration.

While the Committee generally supports efforts to develop a more structured selection process, the Committee believes that careful consideration needs to be given to the use of points as a basis for selection. The Advisory Committee views a point system as a means of identifying outstanding nominees who can then be considered in relation to Committee representation (i.e., geographic and experience). In this regard, the point system is a means for insuring a balanced membership.

Need To Proceed With The Clearance And Issuance Of Special Education Regulations

The Committee during its Washington, D.C. meeting discussed the status of the special education regulations with Mr. George Scott of OIEP's Program Planning and Staff Development Office. According to Mr. Scott, who has assumed responsibility for coordination of Departmental and Office of Management and Budget (OMB) clearance of BIA education regulations in conformance with Executive Order 12291, a decision had not been reached on how to proceed with the special education regulations, i.e., whether to treat separately or include as a part of the academic and dormitory standards.

Over the past two years, the Advisory Committee has repeatedly emphasized the need for the Bureau to adopt its own special education regulations. This is a matter of utmost importance regardless of the outcome of the debate currently being waged about P.L. 94-142 by the Congress and Administration. It is, therefore, recommended that the revised special education regulations be treated separately as was the case for the school board and student rights and responsibilities regulations for the purpose of initiating, as soon as possible, final Departmental and OMB clearance and issuance to the public.

Need To Review Proposed BIA Students Rights And Responsibilities Regulations Concerning The Suspension And Expulsion Of Handicapped Students

It is the Committee's understanding that due to the extensive changes that have been made in the proposed Student Rights and Responsibilities regulations, that these rules will again be issued in proposed form. Because current federal policies have not provided

complete guidance on the extent to which school authorities are permitted to discipline handicapped students, the Committee recommends that the Division of Exceptional Education review and respond to the soon to be published proposed rules to insure that they protect the rights of handicapped children and youth as far as suspension and expulsion is concerned.

Advisory Committee Membership And Equitable Representation

The Committee has for some time been concerned about the composition of the Committee in terms of equitable Area Office representation. Presently, each Area Office has one representative regardless of the number of schools or students served. As you well know, there is tremendous variation among the Areas with regard to these two factors. The Navajo Area Office, for example, has approximately 17,000 students and 62 schools, and the Aberdeen Area Office serves about 8,600 children through 44 schools; whereas several Area Offices presently have less than nine schools and no more than 1,200 students.

While we would hope that adjustments could be achieved through an increase in the number of Committee members, we recognize that this may not be possible at this time. As an interim step while this matter is under consideration by the Division of Exceptional Education, the Committee recommends that one of the at-large member positions be designated as an additional representative from the Navajo Area Office in view of the large student population of this Area Office.

Consideration Of Handicapped Children In Planning For The Closure And/Or Transfer Of BIA Schools

Recently, the Department and Bureau have been responsible for planning and conducting the closure of several Bureau operated schools. The Committee is concerned that such closures may unduly disrupt, and in some instances interrupt, the provision of appropriate special education services to handicapped children attending these schools. The Committee recommends that in developing and adopting policies and procedures for the closure and/or transfer of BIA school facilities, that the special education and related services needs of handicapped children eligible for services from these schools receive adequate and full consideration. In addition to recognizing the educational needs of handicapped children in such closure policies and procedures, it is recommended that the Division of Exceptional Education in conjunction with other education divisions, where appropriate, monitor these procedures to insure tht handicapped children and youth continue to receive appropriate special education services.

Comments of the BIA Advisory Committee for Exceptional Children Respecting the BIA/Department of the Interior FY 80 State Plan Amendment Revised for Part B of the Education of the Handicapped Act as amended by P.L. 94-142

March 1980

I. General Comments

In view of the proximity of the FY 81-83 Annual Program Plan, the Advisory Committee believes the following comments may be helpful to the Division of Exceptional Education. Included are several comments pertaining to the FY 79 Annual Program Plan, which were contained in the Advisory Committee document dated November 23, 1979, and which were neither responded to nor amended in the FY 80 APP. We request, particularly the information for those members who are not directly involved in the education of handicapped children, a response to these comments so that the Committee may be better informed and better equipped to fulfill our role.

The Committee requests the following:

1. A copy of the completed Division of School Facilities accessability study;

2. A copy of the most recent needs assessment survey, in order for the Committee to better understand the personnel needs of the BIA; and

2. The findings of the Annual Evaluation, as mentioned in Section XV of the Annual Program Plan.

II. Special Comments

Section I, Public Notice and Opportunity for Comment

Statement A-4 mentions that a letter is sent to all school officials, school board members, local tribes, and parents of handicapped students, notifying them of the opportunity to review and comment. Because various

members of the Committee have been made aware that information regarding public hearings has not reached all of the above, we suggest that a statement be added to this section outlining procedures for assuring that this will be accomplished.

Section II, Right to Education Policy Statement

This section states that handicapped children have "a right to a free appropriate public education." While a definition for "free" is provided, no definition is provided for "appropriate public education." It is recommended that appropriate public education" be defined to emphasize special education and related services.

Paragraph 2 of this section states that "The Area and Agency Education Offices should enter into written agreements with Social Services (Bureau of Indian Affairs). . . ." The Committee would like to know if monitoring procedures include a system for assuring that agreements are being made.

Section V, Child Identification

The first paragraph specifies that "all handicapped Indian children, ages of birth through twenty-one years within the jurisdiction of the Bureau . . . shall be identified, located and evaluated." In view of the rather widespread confusion concerning the geographic areas where the BIA will conduct child identification activities, it is recommended that "within the jurisdiction of the Bureau" be clarified so that parents, educators and tribal officials understand BIA child identification responsibilities.

Paragraph 3, page 18, refers to the ongoing public awareness campaign conducted by the Agency. The Advisory Committee requests a clarification on who, at the Agency level, is responsible for this, and whether the public awareness effort is reaching areas beyond the jurisdiction of currently funded schools. The Committee would also like to know whether the Division of Exceptional Education monitors this effort.

Section VI, Individualized Education Program

Statement 12 states that Area Office will develop and maintain an IEP for handicapped children placed in or referred to a private school/facility by the BIA. This section is confusing, particularly since "BIA" is not more specifically defined. It would appear that an artificial distinction is being made between children who may require placement in a private school/facility and those whose needs can be met by the local school. Unless the Bureau can provide clarification of this section, we recommend that the local school maintain this responsibility. If need be, the local school could request assistance from the Area Office. However, it has a responsibility to provide an appropriate education to all identified handicapped children regardless of the severity of their handicapping condition.

Statement 13 makes reference to "a representative of the Bureau" being present at meetings to review the IEP of a child placed in a private school/facility. In keeping with our previous suggestion it is recommended that the Bureau representative be specified to be an individual from the local school.

Statement 14 indicates that for children placed or referred to private schools by the Bureau, compliance with IEP requirements remains with the Bureau. Since the Bureau is composed of many different offices and levels, we feel that compliance by "the Bureau" needs to clarified.

Section VIII, Procedural Safeguards

The Advisory Committee discussed at some length, the question of under what conditions, i.e., age, marital status, etc., a student can request a hearing on his/her own initiative **(Statement D-1).** This appears to be unclear and we suggest that these conditions be clarified and set forth in the APP.

Statement D-2 (which by typographical error should be E-2), page 37, indicates that whenever local school pays for an independent educational evaluation, the criteria, location and qualifications of the examiner must be the same as the criteria used when the local school initiates the evaluation. The Committee is concerned that use of the word "same" is too restrictive and suggests that "comparable" be used instead.

Statement F-1 sets forth the conditions under which a surrogate parent will be assigned. While it is not mentioned, the Advisory Committee would like to know if there is consideration given to the child's wishes or preference in the assignment of a surrogate.

Statement F-4 further indicates that a representative selected by the parent may participate in the IEP meeting at the discretion of the parent. Is there an age at which a student had discretion in selecting a representative to attend the IEP conference?

During the course of our first discussion on **Section G, Confidentiality**, the Advisory Committee was informed that in instances where psychological services are contracted, the individual psychological report is maintained at the Area or Agency and a copy is sent to the local school. More recently, it was brought to our attention that in some cases contracting offices have requested copies of IEP's and individual progress reports to be sent to the Area Office. In view of the need to maintain the confidentiality of such records, it is recommended that a statement be added to this section specifying that such personally identifiable information be maintained at the local school and that a certified statement attesting to the completed reports be kept at the Area Agency Office for purposes of maintaining contracting records.

In discussing **Safeguards, page 44, Statement 3**, requires that all persons collecting or using personally identifiable information *must* receive training or instructions regarding the destruction, maintenance and safeguarding of information. It states further that training *may* be provided by the Agency/Area Offices. In order that this safeguard be uniformly implemented, we suggest that a procedure for training be outlined by the Division of Exceptional Education and added to this section.

Section VIII, Least Restrictive Environment

Statement 6, page 48: a statement has been added in response to a comment requesting that parents be informed of available services. The statement reads "Area Coordinators shall inform the Agencies and schools within their jurisdiction of the resources available to their communities from the State." In Appendix A, Summary of Public Comments, page 4, item 1, it is additionally stated that "it would then be the responsibility of the schools to discuss the alternatives with the parents of the handicapped child." We suggest that this statement be included in the body of the APP along with a requirement that such a discussion be documented on, or attached to the IEP.

Section IX, Protections in Evaluation Procedures

Statement A-1 states that no single test or type of test will be used as sole criterion for determination of placement. In view of the fact that the IEP determines placement, it is suggested that this statement refer to a determination that the child is handicapped and in need of special education and related services.

In Statement A-2, we suggest that "formal evaluation" be defined.

Statement A-3 indicates that evaluations must be made by individuals expert in the area of suspected disability. It is recommended that "expert" be changed to "certified personnel meeting state requirements" to ensure that qualified individuals are completing the evaluations, or that "expert" be otherwise defined.

In Statement A-11, we suggest that in addition to advising parents and allowing them to comment on social and cultural background information, a statement be added requiring parents to verify in writing that this has occurred.

Section X, Comprehensive System of Personnel Development

The Advisory Committee would like to know how Area Offices can feasibly provide in-service training to all regular classroom teachers, aides, administrators, Title I staff and parents who have been identified as needing training.

Section XIV, Hearing on LEA Application

The first paragraph indicates that the Central Office has the final approval authority for the LEA application. We suggest that the official, i.e., the Director, Office of Indian Education Programs, who has this duty be specified in the APP.

Section XV, Annual Evaluation

The last statement of this section indicates that the BIA Central Office will produce a total evaluation report. The Advisory Committee suggests that this be stated to indicate that this responsibility be that of the Division of Exceptional Education of the BIA Office of Indian Education Programs.

Comments Respecting the
BIA/Department of the Interior FY 81-83 State Plan
May 28, 1981

General Comments

Under the Education Amendments Act of 1978, P.L. 95-561, the Secretary of the Interior has vested in the Assistant Secretary for Indian Affairs the authority for all functions administered by the Bureau of Indian Affairs.

In this regard, the Advisory Committee requests clarification as to whether the Assistant Secretary for Indian Affairs is the designated official responsible for undersigning the submission of the Fiscal Year 1981-83 State Plan.

It is the feeling of the Committee that because the Plan is made available for public comment, and will be read by people who do not have access to, or are uninformed about P.L. 94-142 regulations, a definitions section would facilitate more useful comments. Some specific items we have noted to cause confusion and questions are:

- "BIA" as used throughout the Plan still seems to require a clear statement regarding whether these guidelines apply to tribally operated as well as BIA-funded schools.
- "Part B Funds" and "P.L. 94-142 funds" are used interchangeably and probably should be defined, and one term used consistently.
- The terms "local schools" and "local education agencies" need clarification.
- "days" needs definition to answer whether consecutive or school days are intended in the timelines.
- "State Plan" and "APP" are used interchangeably and need definition and consistent use throughout the Plan.

Specific Comments

Section 1. Public Notice and Opportunity to Comment

The BIA State Plan, by this section, is to be made available to the public prior to final submission to the Department of Education. It is our understanding that the Plan was submitted as a final document before notice of its availability was made public. For example, the Portland and Navajo Areas received notice to hold public hearing in mid-April. Some local schools received twenty-four hour notice of public hearings, and because of distance from Agency offices, had no access to a copy of the Plan in time to comment. The Advisory Committee is concerned that, while the desire is expressed for public comment, a process is still not in place for this to occur. We strongly recommend that sufficient time be allowed in the future for this activity, and that monitoring to assure compliance with timelines occurs at all levels.

Statement A-1: Recognizing that "all school officials, school board members, local tribes and parents of handicapped students" should be informed of the opportunity to review and comment on the State Plan, the Advisory Committee is concerned that there appears to be no procedure for assuring that this is accomplished. We recommend that a more detailed system for publicity, with responsible parties designated, be outlined and monitored by the Division of Exceptional Education.

Statements A-2 and B-3 make reference to the Office of Indian Education Programs Newsletter. No Committee member is aware of the existence of this newsletter. We recommend that, if this document is being published, the mailing list be updated to include Advisory Committee members and local school officials, and if it is not, the statements above be changed.

Statements A-3 and B-4 state that "Each Agency Education Office will announce in a leading Newspaper with community-wide circulation" the availability and approval of the State Plan.

In most areas served by the schools concerned, one newspaper cannot possibly reach all interested parties. We recommend that publications presently being used be reviewed by each Area office and that geographic considerations enter into future guidelines for publication to assure more than minimum compliance.

Statement A-6 states that "Written comments may be submitted to the Office of Indian Eduction Programs for review and action . . ." The Advisory Committee recommends that an appropriate contact person be named and listed with a telephone number and the Bureau of Indian Affairs, Division of Exceptional Education address.

Statement B-4 refers to "all schools within the Bureau." The Committee recommends that this phrase should explicitly signify whether tribally-operated schools, as well as BIA-funded schools are included in this statement.

Section II. Right to Education Policy Statement

According to P.L. 94-142, Implementation of Part B of the Education of the Handicapped Act, "Each annual program plan must include information which shows that the State has in effect a policy which insures that all handicapped children have the right to a free appropriate public education (121a.121)." Rules and regulations which are intended to assure the availability of a free

appropriate public education are not promulgated in final form at this time; therefore, to our knowledge, there is no statute or law governing BIA Special Education. The Committee wished to be kept informed of the status of the Bureau of Indian Affairs' Special Education, Indian Children Regulations.

Section III. Full Educational Opportunities Goal and Timelines

Item C, is titled "Description of Facility, Personnel and Service Needs." The Committee feels this section is vague, and recommends that 1) the results of the Division of School Facilities' survey and follow-up study be summarized and included, 2) that transportation problems prohibiting monitoring and summer school programs be addressed and 3) that the effect of the hiring freeze on personnel be discussed.

Section IV. Policy on Priorities

In paragraphs 2 and 3, the responsibility of "local education agencies" is not clear. Paragraph 2 defines Priority 1 children as those "residing on a reservation . . ." while paragraph 3 defines the same children as those "residing on or near a reservation." We request clarification of local education agency responsibility.

Item 5, page 4-1: We recommend that the term "full educational opportunities" be changed to "special education and related services" to clarify approved use of P.L. 94-142 funds. Similarly, in item 6, page 4-2, we recommend using the term "special educational needs" in place of "educational needs."

Item A, page 4-2 lists the basis for providing local schools with Part B funds. The Advisory Committee requests an explanation of the rationale for lower funding for full-time severely emotionally disturbed, specific learning disabled and mentally retarded children.

Section V. Child Identification

Paragraphs 2 and 3, page 5-1, charges the "Agency" with responsibility for Child Find Activities. The Committee feels that these activities could be carried out more efficiently if it were clear who is responsible at the Agency level, as all Agencies do not have special education personnel.

Item 3, paragraph 2, would be more accurate if the phrase "on or near the reservation" were added.

Concerning General Entry Screening, item 3, the committee feels that this statement could specify that the child's Native language and English be assessed. A narrow screening of primary language may overlook proficiently bi-lingual children.

Paragraph 2, page 5-4: The committee recommends that physicians and social agencies be included among those who may make a referral. In regard to the last sentence of this paragraph, "The child, once placed, will become exempt from the screening procedures conducted thereafter," the Committee believes that exemption may cause additional physical and developmental problems to be overlooked. We recommend this sentence be deleted.

Section VI. Protection in Evaluation Procedures

Paragraph 1(b): To be required to make a full evaluation whenever requested by a parent, teacher or administrator may put an unnecessary financial burden on the school. The Committee recommends that a full evaluation be required only after review of existing records and comprehensive screening results, if deemed necessary by the Child Study Team (including the person making the referral).

Items 12 and 13, page 6-2, and item 14, age 6-3, are, in the Committee's opinion, part of the IEP process and should be deleted from this section. This applies also to item C-1 on page 6-3.

Item E-1, page 6-4: The Committee suggests that a statement regarding the child's language proficiency (Native language and English) be clearly required in the educational status evaluation to avoid oversight and possible misclassification. We recommend that this be added to item E-1.

Statement E-4, page 6-5, "For a child enrolled in a secondary education program" we believe should be more clearly stated. We recommend that the phrase "For a child of secondary school age" be substituted to assure vocational opportunities regardless of the child's placement.

Paragraph 2, page 6-6: The committee feels that language proficiency should be specifically addressed in the evaluation report and recommends this addition to the list.

Items 5 and 6, page 6-6 both refer specifically to IEPs. We recommend that they be deleted from this section.

Paragraph 3 page 6-6: Members of the Committee who have had experience with evaluation and child study teams believe the process would be facilitated if a person were designated to prepare the final evaluation report at the time the evaluation plan is prepared. We recommend that a statement be added to this effect.

Section VII. Individualized Education Program

Items 17 and 18, page 7-4, make reference to "the Bureau." The Committee requests clarification of who, in the Bureau, will be responsible for assuring compliance with IEP requirements and for attending IEP Meetings for children placed in or referred to private schools. Without a clearer designation of responsibility, this activity may not occur.

Section VIII. Least Restrictive Environment

The term "Least Restrictive Environment" seems to be subject to conflicting definitions among special educators. The Committee requests that this term be defined at the beginning of this section for easy reference.

Statement 4: The Committee requests clarification regarding the "Comprehensive Regulations for Special Education" and the education standards developed by the OIEP/BIA. Are these documents available in final, approved form? If so, readers of the State Plan would benefit from knowing where copies can be obtained.

Statement 5, paragraph 2: The Committee recommends that the phrase "group of persons" be replaced with a more specific phrase. The Placement Committee, or the Child Study Team, including parent(s), would be more appropriate, since parent approval of placement is required.

Section IX. Procedural Safeguards

Statement A-6, page 9-1 states that "Whenever the local school pays for an independent educational evaluation, the criteria, including the location and qualifications of the examiner must be the same criteria used when the local school initiates the evaluation." The Committee has commented in the past two years that this imposes an unnecessary restriction on evaluation resources and requests an explanation for this requirement.

Statement D-1, page 9-3: The Committee still feels more clarification is needed for the conditions under which a student may request a hearing on his/her own initiative. We also request clarification on the issue of whether a parent may request a hearing on action taken by the school only if notice to parents is required.

Statement E-2, page 9-6, outlines the conditions under which a surrogate parent will be selected. The Committee would like to know if there are any motives reasonable enough for a child to select a surrogate parent. We also recommend that some guidelines for selection of a surrogate parent be listed.

Statement E-5: The Committee would like to know at what age a child may have the option of selecting his/her own representative to attend the IEP conference in lieu of parent.

Section X. Participation of Private School Children

The Committee is concerned that while a child may be enrolled and receiving services from a State/private educational program, the BIA should retain responsibility for assuring that these students are provided with the necessary educational services, a monitoring responsibility rather than financial.

The Committee also asks that the issue of responsibility to children in the State of New Mexico be addressed in this section.

Section XII. Comprehensive System of Personnel Development

The Advisory Committee is concerned that the plan outlined in this section cannot meet the training needs of all personnel and populations listed on page 12-23 and in Appendix B for the following reasons:

- The LEAs identified to receive training are only a small segment of existing special education personnel. While this section states that "For LEAs not participating in the previously described activities, in-service training will be provided according to the identified needs of the personnel," we are concerned that funds will be available to provide this additional training (page 12-24, item 10).
- Although personnel from within an Area were invited to attend sessions at training sites in the spring of 1981, travel restrictions prevented their participation.
- The Simulated Compliance Review component of the training has proven threatening to some groups and has prevented them from receiving needed training.

- Several priority groups have not been addressed sufficiently to meet immediate needs: hearing officers need specific training in their role, which would be inappropriate for a group session, and interpreters are not addressed at all.

Item 3 on page 12-20 states that ". . . parent groups, advocacy groups and other organizations serving the Indian population have the opportunity to participate in the development, review and annual updating of the CSPD." The system described in the FY 81-83 State Plan was being implemented before the State Plan was available for review and comment. This paragraph also states that input was not sought from institutions of higher education because the Bureau's system of education is not public. The Committee is aware of training opportunities available to BIA schools and suggests that this input could avoid duplication and be a step toward cooperative agreements encouraged by the Division of Exceptional Education.

Paragraph 2, page 12-21 states ". . . all schools, Agencies and Area Offices received copies of the approved FY 1980 APP." The Committee is concerned, because of reports from parties attending its meetings, that a system must be established to assure that "all" are receiving a copy of the Plan.

With regard to a Comprehensive System of Personnel Development, the Advisory Committee recommends that:

- All schools, Agencies and Area Offices receive a brief, clear statement from the Division of Exceptional Education outlining what training options are available to them and exactly how they are to request assistance.

- The Division of Exceptional Education consider surveying its own personnel in schools, Agencies and Area Offices and exploring a mechanism to allow them to share their expertise with others (release time, travel allowance).

Section XVI. Additional Requirements

Statement C-2 on page 16-3 states that the designated individual responsible for implementing the complaint procedure requirement is the Director, OEIP/BIA. The Committee feels strongly that there should be a responsible person designated at a more local level.

Appendices

Appendix A

Charter Of The Bureau Of Indian Affairs Advisory Committee For Exceptional Children

Official Designation

The official designation of this committee shall be: BUREAU OF INDIAN AFFAIRS ADVISORY COMMITTEE FOR EXCEPTIONAL CHILDREN

Purposes

1. This committee shall serve only in an advisory role.

2. They shall comment publicly on the annual program plan.

3. They shall comment on proposed rules, regulations and procedures for the distribution of funds.

4. They shall advise the Secretary of the Interior through the Assistant Secretary for Indian Affairs of the unmet needs in the education of handicapped Indian or Alaska Native children.

5. They shall assist in developing and reporting such information as may help the Bureau of Indian Affairs serve handicapped Indian or Alaska Native children.

Time Limit

This committee is required by P.L. 94-142, and is expected to continue beyond the foreseeable future. However, its continuation will be subject to biennial termination and renewal provisions of Section 14 of P.L. 92-463.

Official To Whom The Committee Reports

The committee reports to the Assistant Secretary of the Interior for Indian Affairs.

Administrative Support

Administrative support will be provided by the Department of the Interior-Bureau of Indian Affairs.

Duties Of The Committee

The duties shall be as described in the purposes and in addition they shall:

Report by July of each year its activities and suggestions to the Assistant Secretary for Indian Affairs.

Estimated Annual Cost

Activities of the committee will require an estimated $25,000.00 and one (1) man year of Federal employee support annually.

Number And Frequency Of Meetings

The committee will meet at least three (3) times per year.

Termination Date

As a statutorily mandated committee, a charter must be filed for this committee on or before each successive two-year period following the date of enactment of P.L. 94-142. Thus, the charter for this committee must be renewed in 1983.

Membership

1. The committee shall be composed of fifteen (15) members. Each shall serve a term of three (3) years with five (5) members replaced annually. Initially the terms will be staggered.

2. Membership to this committee shall be by appointment from the Secretary of the Interior upon recommendation of the Assistant Secretary for Indian Affairs.

3. The committee shall consist of but not limited to:
   1. Handicapped individuals.
   2. Teachers of the handicapped.
   3. Parents of the handicapped.
   4. Special Education Program administrators.
   5. Local education agency officials.

4. A member may be terminated by the Secretary of the Interior at any time following formal notification for:
   1. Violation of Department of the Interior rules and regulations.
   2. Conflict of interest.
   3. Repeated absence.
   4. Failure to discharge duties.

Statutory Authority

The statutory authority for this committee shall be P.L. 94-142.

Compensation

Members may be reimbursed for allowable travel, per diem and expenses.

Officers

The officers of this committee shall be President, Vice President, Corresponding Secretary and shall be elected annually from the membership of the committee. Their duties shall be:

1. President shall preside at all meetings.
2. Vice President shall serve in the absence of the President.
3. Corresponding Secretary shall receive all communications and reports to the committee.

Secretary of The Interior

MAY 14, 1981	MAY 22, 1981
Date Signed	**Date Filed**

Appendix B

Bureau Of Indian Affairs
Projected December FY 1980 Child Count

	Mentally Retarded	Hard of Hearing	Deaf	Speech Impaired	Visually Impaired	Seriously Emotionally Disturbed	Orthopedically Impaired	Other Health Impaired	Specific Learning Disability	Multi-Handicapped	Deaf/Blind	TOTAL
AREAS												
Aberdeen	87	9	1	355	4	8	9	6	375	10	1	865
Albuquerque	30	2	0	57	0	3	3	0	183	20	0	298
Anadarko	11	0	0	7	0	0	0	1	36	0	0	55
Billings	13	5	0	32	0	5	1	1	55	0	0	112
Eastern	73	1	1	53	0	22	0	7	144	3	0	304
Juneau	47	4	1	16	0	2	0	2	194	5	0	271
Minneapolis	5	4	0	49	0	2	3	2	25	3	0	93
Muskogee	1	0	0	0	0	0	0	0	14			15
Navajo	195	93	0	201	19	106	12	3	1021	122	0	1772
Phoenix	34	0	0	48	2	40	2	2	237	17	0	382
Portland	12	15	0	50	0	6	1	0	97	3	0	184
Institutionalized	104	0	9	1	0	30	2	0	7	120	0	273
Total	612	133	12	869	25	224	33	24	2388	303	1	4624

Appendix C

Division of Exceptional Education Office of Indian Education Programs and Area Office/Agency Special Education Personnel Directory

Office of Indian Eduation Programs
Division of Exceptional Education

United States Department of the Interior
Bureau of Indian Affairs
Office of Indian Education Programs
Division of Exceptional Education
18th and C Streets, N.W.
Washington, D.C. 20245 (Mail Code 507)
Phone 202-343-4071, 2, 3

Dr. Charles Cordova, *Chief*

Mr. Goodwin K. Cobb, III *Education Specialist*

Ms. Marie Emery, *Education Specialist*

Ms. Dixie Owen, *Education Specialist*

Ms. Jacqueline Jim, *Secretary*

Ms. Ernestine Sanders, *Clerk-Typist*

Aberdeen Area Office

Mr. Bruce Pray
Education Specialist
Bureau of Indian Affairs
Federal Building
115 Fourth Avenue, S.E.
Aberdeen South Dakota 57401
Phone (605) 782-7496

Ms. Carmen Kemery
(Crow Creek, Lower Brule, Rosebud)
Special Education Coordinator
Bureau of Indian Affairs
Fort Thompson, South Dakota 57339
Phone (605) 245-2398

Mrs. Marie Clifford
Special Education Coordinator
Pine Ridge Agency
Pine Ridge, South Dakota 57770
Phone (605) 867-5121

Mrs. Gretchen Eagleman
Special Education Coordinator
Standing Rock Agency
Ft. Yates, North Dakota 58538
Phone (701) 854-3431

Ms. Beverly Mestes
Special Education Coordinator
Cheyenne River Agency
Eagle Butte, South Dakota 57625
Phone (605) 964-8722

Ms. Jane Lommen
Special Education Coordinator
Ft. Totten Agency
Ft. Totten, North Dakota 58335
Phone (701) 766-4198

Ms. Gaylene Belgard
Turtle Mountain Agency
Bureau of Indian Affairs
Belcourt, ND 58316

Albuquerque Area Office

Ms. Ann Crawley
Education Specialist
Bureau of Indian Affairs
5301 Central Avenue, N.E.
P.O. Box 8327
Albuquerque, New Mexico 87108
Phone 474-3161—FTS
(505) 766-3161—Commercial

Ms. Sharon Farrell
Special Education Coordinator
Northern Pueblos Agency
P.O. Box 1088
Santa Fe, New Mexico 87501
Phone (505) 988-6447

Mr. Efren Medrano
Special Education Coordinator
Southern Pueblos Agency
P.O. Box 1667
Albuquerque, New Mexico 87103
Phone 474-3034—FTS
(505) 766-3034—Commercial

Anadarko Area Office

Ms. Judy Littleman
Special Education Coordinator
Bureau of Indian Affairs
P.O. Box 368
Anadarko, Oklahoma 73005
Phone (918) 743-7251

Billings Area Office

Mr. F. Sam Azure
Education Specialist
Bureau of Indian Affairs
316 North 26th Street
Minneapolis, Minnesota 55402
Phone (406) 657-6375

Eastern Area Office

Ms. Noel Malone
Education Specialist
Bureau of Indian Affairs
19th & Constitution Avenue, N.W.
Washington, D.C. 20245
Phone (202) 235-2571

Ms. Linda Griffiths
Special Education Coordinator
Cherokee Agency
Bureau of Indian Affairs
Cherokee, North Carolina 28719
Phone (704) 497-9131

Ms. Nettie Moore
Acting Special Education Coordinator
Choctaw Agency
Bureau of Indian Affairs
421 Powell
Philadelphia, Mississippi 39350
Phone (601) 656-1521

Juneau Area Office

Mr. Chuck Christian
Education Specialist
Anchorage Field Office
P.O. Box 120
Anchorage, Alaska 99501
Phone (907) 345-3360

Mr. Bruce Marlin
Nome Agency
Box 1108
Nome, Alaska 99762
Phone (907) 443-2252

Mr. William McDaniels
Special Education Coordinator
Box 16
101 12th Avenue
Fairbanks, Alaska 99701
Phone (907) 452-1951, ext. 222

Ms. Carolyn Ross
Box 347
Bethel, Alaska 99559
(907) 543-2746

Minneapolis Area Office

Mr. Lewis Clagg
Education Specialist
Bureau of Indian Affairs
831 Second Avenue, South
Minneapolis, Minnesota 55402
Phone 787-3606—FTS
(612) 725-2901—Commercial

Muskogee Area Office

Mr. Tom Patterson
Education Specialist
Bureau of Indian Affairs
Federal Building
Muskogee, Oklahoma 74401
Phone (918) 736-2460

Navajo Area Office

Mr. Norman Wilcox
Education Specialist
Bureau of Indian Affairs
P.O. Box 1060
Window Rock, Arizona 86515
Phone 479-5012—FTS
(602) 871-5151, ext. 5244—Commercial

Ms. Marion Smith
Special Education Coordinator
Bureau of Indian Affairs
P.O. Box 32
Crownpoint, New Mexico 87313
Phone (505) 786-5231

Mr. Jerry Walker
Bureau of Indian Affairs
Western Navajo Agency
P.O. Box 127
Tuba City, Arizona 86045
Phone 762-4222—FTS
(602) 283-6257—Commercial

Mr. Ed Fallon
Special Education Coordinator
Bureau of Indian Affairs
Chinle Agency
P.O. Box 7H
Chinle, Arizona 86503
Phone (602) 674-5407

Dr. Charles Deal
Special Education Coordinator
Bureau of Indian Affairs
Ft. Defiance Agency
P.O. Box 619
Ft. Defiance, Arizona 86504
Phone 479-7259—FTS
(602) 729-5041—Commercial

Mr. Bobby Dean
Special Education Coordinator
Bureau of Indian Affairs
Shiprock Agency
P.O. Box 966
Shiprock, New Mexico 87420
Phone (505) 368-4991

Phoenix Area Office

Ms. Rosella Lawrence
Education Specialist
Bureau of Indian Affairs
P.O. Box 7007
Phoenix, Arizona 85011
Phone 261-2320—FTS
(602) 241-2320—Commercial

Ms. Sylvia Wimmer
Special Education Coordinator
Papago Agency
P.O. Box 578
Sells, Arizona 85634
Phone (602) 261-7356

Ms. Cecilia Braun
Special Education Coordinator
Pima Agency
Gila River Early Childhood Program
Sacaton, Arizona 85247
Phone (602) 562-3882

Mr. Kenna Harjo
Ft. Apache Agency
Whiteriver, Arizona 58941
Phone (602) 338-4364

Ms. Camille Medicine
Phoenix Indian High School
P.O. Box 7188
Phoenix, Arizona 85011
Phone (602) 261-2146

Mr. David Dutcher
Sherman Indian High School
9010 Magnolia Avenue
Riverside, California 92503
Phone (714) 796-1436

Portland Area Office

Mr. Kathie Carpenter
Education Specialist
Bureau of Indian Affairs
1425 Irving Street, N.E.
P.O. Box 3785
Portland, Oregon 97208
Phone 429-6739—FTS
(503) 231-6739—Commercial

Appendix D

Bureau of Indian Affairs
Office of Indian Education Programs

Division of Exceptional Education
18th and C Streets, N.W.
Mail Code 507
Washington, D.C. 20245

Nominations For The Bureau Of Indian Affairs
Advisory Committee For Exceptional Children

NOTE: Additional pages may be attached for further explanation of any item. Item numbers should be referred wherever additional explanation is made. Other letters of recommendation and resumes may be attached if desired.

Name of Person Being Nominated (last, first, middle initial)

1. **MR.** _____
   MRS. _____
   MS. _____

2. **HOME ADDRESS** (include number, street, city, State and ZIP Code)
   _____

3. **Name of Tribe** _____ 4. **Home Telephone** _____
   (Include Area Code)

5. **Nomination For The Following Category** (check one)
   - _____ Teachers of Handicapped Children
   - _____ Student (College or Secondary student in their junior year)
   - _____ School/Tribal Education Officials
   - _____ Parents of Handicapped Children
   - _____ Special Ed. Administrators/ Coordinators
   - _____ Handicapped Individuals
   - _____ Related Services Personnel

6. **Nominee Has Had Experience With The Following Types of Schools** (check one or more)
   - _____ BIA Day School
   - _____ BIA Boarding
   - _____ Off-reservation Boarding
   - _____ Tribally controlled contract
   - _____ Cooperative

7. **Occupation** _____
   a. **Name of Organization** _____
   b. **Address** (include number, street, city, State and ZIP code) _____
   _____ c. **Telephone** _____
   (Include Area Code)

8. **Experience:** Please list the following information, highlighting those experiences related to the education of American Indian and Alaska Native handicapped children and youth. Approximate dates of experience/ employment, position, title, name and location of organization, and a brief description of duties. Additional pages may be attached as necessary.

_____

_____

9. **Special Education and Indian Education Organizational Membership(s)** (Give approximate dates of membership and if appropriate offices held).

_____

_____

10. **Special Interests, Activities and Awards** (list professional, eduational, and community contributions or other areas of special interest, highlighting those related to the education of American Indian and Alaska Native handicapped children.

_____

_____

11. **Education** (Optional) Include also any educational institutions attended which did not result in a degree.

High School _____ (Year completed) **Name Of School** _____

Associate Degree _____ (Year completed) **Name Of Institution** _____
And Major Field Of Study _____

Bachelor _____ (Year completed) **Name Of Institution** _____
And Major Field Of Study _____

Masters Or First Professional _____ (Year completed) **Name Of Institution** _____
And Major Field Of Study _____

Doctorate Or Second Professional _____ (Year completed) **Name Of Institution** _____
And Major Field Of Study _____

12. **Recommended By** _____

a. **Name Of Indian Tribe, Organization, Education Agency Or Individual** _____

b. **Address** _____
(Include number, street, city, State and ZIP Code)

c. **Signature** _____

d. **Type Or Print Name of Authorized Official and Title If Nominated By A Tribe, Organization Or Agency** _____

_____

e. **Telephone No.** _____

f. **Date Signed** _____

Return this completed form to:
Bureau of Indian Affairs
Office of Indian Education Programs
Division of Exceptional Education, Code 507
18th and C Streets, N.W.
Washington, D.C. 20245

Appendix E

Map of BIA Area Offices